IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of: Robert M. H. Dunn	: :
	: Before the Examiner:
Serial No: 10/666,799	: Chelcie L. Daye
	:
Filed: 09/18/2003	: Group Art Unit: 2161
	:
Title: STOREPATH FOR SHARING COMMERCE ASSETS	: Confirmation No.: 9024 : :

APPELLANTS' BRIEF UNDER 37 C.F.R. §41.37

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal to a final rejection dated November 02, 2006 of Claims 1 – 3, 5, 22 – 24, 26 – 29, 31 – 34 and 36 in the Application. This brief is submitted pursuant to a Notice of Appeal filed on 02/02/2007.

BRIEF FOR APPLICANTS - APPELLANTS

(i)

Real Party in Interest

The real party in interest is International Business Machines Corporation (IBM), the assignee.

(ii)

Related Appeals and Interferences

There are no other appeals or interferences known to appellants, appellants' representative or assignee, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(iii)

Status of Claims

Claims 1 – 5 and 22 - 36 are finally rejected and Claims 6 - 21 were canceled from the Application. Claims 1 – 3, 5, 22 – 24, 26 – 29, 31 – 34 and 36 are being appealed.

(iv)

Status of Amendment

An "Amendment-After-Final" was not filed.

(v)

Summary of Claimed Subject Matter

The invention, as claimed in independent Claim 1, provides a method of accessing data regarding commerce assets such as products or services offered at virtual stores participating in a virtual marketplace. The assets are organized by types and each type is enabled to include all versions of an asset. The method comprises the steps of establishing a storepath relationship to correlate asset types among the virtual stores; consulting the storepath relationship for the

asset type of a particular asset upon receiving a query from a user, the query including the particular asset and a particular virtual store indicating the virtual store at which the user desires to shop; and returning data representing all the versions of the particular asset to the user as a response to the query (see generally paragraphs 33 – 35 on page 10, line 1 to page 11, line 4, paragraphs 42 and 43 on page 12, the last for lines to bottom of page 13 and Figs. 2, 4 and 6 and specifically paragraphs 44 – 46 on page 13, line 3 to page 15, line 2 and Fig. 7).

The invention, as claimed in independent Claim 22, provides a computer program product on a computer readable medium for allowing a user to access data regarding commerce assets such as products or services offered at virtual stores participating in a virtual marketplace. The assets are organized by types and each type is enabled to include all versions of an asset. The computer program product comprises code means for establishing a storepath relationship to correlate asset types among the virtual stores; code means for consulting the storepath relationship for the asset type of a particular asset upon receiving a query from a user, the query including the particular asset and a particular virtual store indicating the store at which the user desires to shop; and code means for returning data representing all the versions of the particular asset to the user as a response to the query (see generally paragraphs 33 – 35 on page 10, line 1 to page 11, line 4, paragraphs 42 and 43 on page 12, the last for lines to bottom of page 13 and Figs. 2, 4 and 6 and specifically paragraphs 44 – 46 on page 13, line 3 to page 15, line 2 and Fig. 7). The code means are the steps outlined in paragraphs 44 – 46 on page 13, line 3 to page 15, line 2 and Fig. 7.

The invention, as claimed in independent Claim 27, provides a computer system for a user to access data regarding commerce assets such as products or services offered at virtual stores participating in a virtual marketplace. The assets being are by types and each type is enabled to include all versions of an asset. The computer system comprises at least one storage system for storing code data; and at least one processor for processing the code data to establish a

storepath relationship to correlate asset types among the virtual stores, to consult the storepath relationship for an asset type of a particular asset upon receiving a query from a user, the query including the particular asset and a particular virtual store indicating a virtual store at which the user desires to shop and to receive and display returned data representing all the versions of the particular asset to the user as a response to the query (see generally paragraphs 33 – 35 on page 10, line 1 to page 11, line 4, paragraphs 42 and 43 on page 12, the last for lines to bottom of page 13 and Figs. 2, 4 and 6 and specifically paragraphs 44 – 46 on page 13, line 3 to page 15, line 2 and Fig. 7).

The invention, as claimed in independent Claim 32, provides a computer-controlled apparatus for a user to access data regarding commerce assets such as products or services offered at virtual stores participating in a virtual marketplace. The assets are organized by types and each type is enabled to include all versions of an asset. The computer-implemented apparatus comprises means for establishing a storepath relationship to correlate asset types among the virtual stores; means for consulting the storepath relationship for the asset type of a particular asset upon receiving a query from a user, the query including the particular asset and a particular virtual store indicating the virtual store at which the user desires to shop; and means for returning data representing all the versions of the particular asset to the user as a response to the query (see generally paragraphs 33 – 35 on page 10, line 1 to page 11, line 4, paragraphs 42 and 43 on page 12, the last for lines to bottom of page 13 and Figs. 2, 4 and 6 and specifically paragraphs 44 – 46 on page 13, line 3 to page 15, line 2 and Fig. 7). The means are the steps outlined in paragraphs 44 – 46 on page 13, line 3 to page 15, line 2 and Fig. 7 when processed by a client 102 and/or application server 104 and resource manager 110 in Fig. 1.

(vi)

Grounds of Rejection to be Reviewed on Appeal

Whether it was proper to reject Claims 1 – 3, 5, 22 – 24, 26 – 29, 31 – 34 and 36 under 35 U.S.C. §102(e) as being anticipated by Nowers et al.

(vii)

Arguments

Whether it was proper to reject Claims 1 – 3, 5, 22 – 24, 26 – 29, 31 – 34 and 36 under 35 U.S.C. §102(e) as being anticipated by Nowers et al.

Claims 1, 22, 27 and 32

Nowers et al. purport to teach a method for facilitating fulfillment of electronic commercial transactions. Accordingly, Nowers et al. provide an electronic transaction system (ETS) that includes a global product catalog listing products from a variety of vendors as well as a warehouse where the physical products are kept. The ETS is accessible to vendors as well as to Internet retailers. The vendors update the ETS by adding new products into the ETS they carry as well to delete products that have been discontinued or they no longer carry. The vendors also select Internet retailers they want to allow or authorize to sell the products for them. The Internet retailers select the products (in the global catalog) they wish to sell, provided they have been authorized to do so by the vendors. Information concerning selected products is downloaded to the Internet retailers for display on their electronic storefronts.

When a shopper is shopping for a product, the shopper accesses a Web page of an Internet retailer for the retailer's product inventory. As mentioned above, the product inventory of an Internet retailer will comprise all the products that the Internet retailer has selected to sell from the different vendors from which authorization was given. The shopper may then choose to buy a product from the product inventory of the Internet retailer.

Upon checking out, an order for the selected product or products will be sent to the ETS. The ETS conveys the orders to the warehouse to enable the warehouse to fulfill the orders.

However, Nowers et al. do not teach, show or suggest the step of ***consulting the storepath relationship for the asset type of a particular asset***

upon receiving a query from a user, the query including the particular asset and a particular virtual store indicating the virtual store at which the user desires to shop.

The Examiner asserted that Nowers et al. teach this step in Fig. 3b and paragraphs [0110] and [0111]. Appellants respectfully disagree.

Paragraphs [0110] and [0111] of Nowers et al. are reproduced below:

> [0110] Selection of the products option 52 from the tool bar 50 exposes a drop down menu 52a including a search my catalog option, a categorization and brand set-up option and an add new product option as shown in FIG. 3a. Each option is displayed as a web page control linked to an underlying page. Selecting the search my catalog option opens a page 74 displaying a product search engine 76 as shown in FIG. 3b. The product search engine 76 allows the vendor to search their vendor product catalog in the product database 14p by keyword. The search can be performed across all categories or limited to a selected category highlighted in a category field 76a.
>
> [0111] All of the products in the vendor's product catalog can be displayed by selecting the "view all products in your catalog" web page control 76b. Searching can be further refined using additional criteria fields 76c. Specifically, the additional criteria fields 76c allow searches to be limited to new products, updated products and/or products associated with Internet retailers with whom the vendor has deals.

Thus, based on the paragraphs [0110] and [0111] reproduced above, Nowers et al. do not teach that ***the storepath relationship is consulted for the asset type of a particular asset upon receiving a query from a user,*** that the query includes ***a particular virtual store that indicates the virtual store at which the user desires to shop*** and that the ***query is from a shopper***. Rather, in those paragraphs Nowers et al. teach that a vendor (as opposed to a shopper) can search for its own products, update its product catalog as well as display the internet retailers that are authorized to sell its product.

Further, Nowers et al. do not teach the step of ***returning data representing all the versions of the particular asset to the user as a response to the query***.

It is a well settled law that in considering a Section 102 rejection, all the elements of the claimed invention must be disclosed in a single item of prior art in the form literally defined in the claim. *Jamesbury Corp. v. Litton Indus. Products*, 756 F.2d 1556, 225 USPQ 253 (Fed. Cir. 1985); *Atlas Powder Co. v. Dupont*, 750 F.2d 1569, 224 USPQ 409 (Fed. Cir. 1984); *American Hospital Supply v. Travenol Labs.*, 745 F.2d 1, 223 USPQ 577 (Fed. Cir. 1984).

Since Nowers et al. do not teach the steps of (1) consulting the storepath relationship for the asset type of a particular asset upon receiving a query from a user, the query including the particular asset and a particular virtual store indicating the virtual store at which the user desires to shop; and (2) returning data representing all the versions of the particular asset to the user as a response to the query, Appellants submit that the claims are not anticipated by Nowers et al.

Claims 2, 23, 28 and 33

The above-identified dependent claims all recite the limitations of "wherein the data returned includes data representing availability of all the versions of the particular asset."

As mentioned above, Nowers et al. do not teach the step of returning data representing all the versions of the particular asset to the user as a response to the query. Therefore, Nowers et al. do not have any reason to show, teach or suggest returning data representing availability of all versions of a particular asset as a result of the query. Rather, Nowers et al. teach the step of displaying all products that an Internet retailer selected to sell from all the different vendors with which it has a deal.

In support for the rejection of the claims, the Examiner pointed to paragraphs [0112] and [0113]. In paragraphs [0112] and [0113], it is stated that:

> [0112] FIG. 3c shows the vendor's product catalog 80 as displayed in response to selection of the "view all products in your catalog" web page control 76b. The products in the vendor's product catalog are presented in a list and are identified by name 80a and category 80b. The names 80a are presented as web page controls that are linked to underlying product information pages. For example, FIGS. 4a and 4g show the product information pages associated with the first product in the vendor's product catalog 80. These pages expose information relating to the product that is stored in the product database 14p. In the present embodiment, the product information pages include a properties page 100, a SKUs page 120, a deals page 124, an inventory page 126, a media page 128 and a versions page 130. Each page can be exposed by selecting the tab at the top of the respective page.
>
> [0113] As shown in FIGS. 4a and 4b, the properties page 100 displays an image 100a of the product, if available, together with a description of its characteristics 100b. The properties page 100 also includes fields 100c to 100h displaying the product name, the vendor's name, the product model number, the product brand name, the product ID number and when the product information pages were last updated. Properties page 100 also includes a pricing section 102, a returns section 104, a product visibility section 106, an inventory status section 108, a dimensions and weight section 110, an attributes section 112, a categories section 114 and a return flag settings section 116.

But note that it is a vendor that can query the ETS to view all the products from its own catalog (see paragraphs [0110] and [0111] for proper context of the paragraphs cited by the Examiner). By contrast, in the claimed invention the

data is returned as a result of a query from a shopper (see the independent claims on which these claims depend i.e., Claims 1, 22, 27 and 32, for proper context).

Consequently, Claims 2, 23, 28 and 33 are not anticipated by Nowers et al.

Claims 3, 24, 29 and 34

The above-identified dependent claims all recite the limitations of "wherein the data returned further includes data representing the virtual stores that carry versions of the particular asset as well as a price of the versions of the particular asset for comparison shopping."

Again as mentioned above, Nowers et al. teach that when a shopper accesses the Web page of an Internet retailer, all the products that the retailer has selected to sell from the different vendors with which it has a sales agreement will be displayed to the shopper. However, Nowers et al. do not teach that all the Internet retailers that have selected to sell a product will be displayed to the shopper. By contrast the claimed invention states that the data is returned as a response to a query from a shopper (see the independent claims i.e., Claims 1, 22, 27 and 32, for the proper context of the claims).

In this case, the Examiner pointed to paragraph [0165] as support for the rejection of the claims. Appellants respectfully disagree.

In paragraph [0165], it is stated that:

> [0165] FIG. 7d shows the results of a search for a specific product performed using the search engine of FIG. 7c as presented on a product list page 500. The product list page 500 identifies the names 500a of the vendors selling the products and the names 500b of the products. If a displayed product has been designated as white, then the product can be selected by the Internet retailer for incorporation into the Internet retailer product catalog. Icons 500c provide a visual indication if the product is in the Internet retailer

> product catalog. The product names 500a are presented as web page controls that open product information pages. These product information pages are similar to the product information pages shown in FIGS. 4a, 4b, 4c, 4e and 4f but exclude vendor sensitive information. For example, FIGS. 7e and 7f show the properties pages associated with a product selected from a product list.

Here then, it is an Internet retailer that may do so and not a shopper. Consequently, Claims 3, 24, 29 and 34 are not anticipated by Nowers et al.

In view of the foregoing, Appellants request withdrawal of the rejection and passage to issue of the claims.

Respectfully Submitted

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(viii)

Claims Appendix

1. A method of accessing data regarding commerce assets such as products or services offered at virtual stores participating in a virtual marketplace, the assets being organized by types, each type being enabled to include all versions of an asset, said method comprising the steps of:

establishing a storepath relationship to correlate asset types among the virtual stores;

consulting the storepath relationship for the asset type of a particular asset upon receiving a query from a user, the query including the particular asset and a particular virtual store indicating the virtual store at which the user desires to shop; and

returning data representing all the versions of the particular asset to the user as a response to the query.

2. The method as set forth in claim 1 wherein the data returned includes data representing availability of all the versions of the particular asset.

3. The method as set forth in claim 2, wherein the data returned further includes data representing the virtual stores that carry versions of the particular asset as well as a price of the versions of the particular asset for comparison shopping.

4. The method as set forth in claim 2, wherein one or more virtual stores can elect to not have available one or more of the different versions of the particular asset.

5. The method as set forth in claim 2, wherein when the user buys one of a particular asset or one of the virtual stores adds to the availability of the particular asset, the availability of the particular asset is dynamically updated.

6 – 21 Canceled.

22. A computer program product on a computer readable medium for allowing a user to access data regarding commerce assets such as products or services offered at virtual stores participating in a virtual marketplace, the assets being organized by types, each type being enabled to include all versions of an asset, the computer program product comprising:

code means for establishing a storepath relationship to correlate asset types among the virtual stores;

code means for consulting the storepath relationship for the asset type of a particular asset upon receiving a query from a user, the query including the particular asset and a particular virtual store indicating the store at which the user desires to shop; and

code means for returning data representing all the versions of the particular asset to the user as a response to the query.

23. The computer program product of claim 22 wherein the data returned includes data representing availability of all the versions of the particular asset.

24. The computer program product of claim 23, wherein the data returned further includes data representing the virtual stores that carry versions of the particular asset as well as a price of the versions of the particular asset for comparison shopping.

25. The computer program product of claim 23 wherein one or more virtual stores can elect to not have available one or more of the different versions of the particular asset.

26. The computer program product of claim 23 wherein when the user buys one of a particular asset or one of the virtual stores adds to the availability of the particular asset, the availability of the particular asset is dynamically updated.

27. A computer system for a user to access data regarding commerce assets such as products or services offered at virtual stores participating in a virtual marketplace, the assets being organized by types, each type being enabled to include all versions of an asset, the computer system comprising:

at least one storage system for storing code data; and

at least one processor for processing the code data to establish a storepath relationship to correlate asset types among the virtual stores, to consult the storepath relationship for an asset type of a particular asset upon receiving a query from a user, the query including the particular asset and a particular virtual store indicating a virtual store at which the user desires to shop and to receive and display returned data representing all the versions of the particular asset to the user as a response to the query.

28. The computer system of claim 27 wherein the data returned includes data representing availability of all the versions of the particular asset.

29. The computer system of claim 28, wherein the data returned further includes data representing the virtual stores that carry versions of the particular asset as well as a price of the versions of the particular asset for comparison shopping.

30. The computer system of claim 28 wherein one or more virtual stores can elect to not have available one or more of the different versions of the particular asset.

31. The computer system of claim 28 wherein when the user buys one of a particular asset or one of the virtual stores adds to the availability of the particular asset, the availability of the particular asset is dynamically updated.

32. A computer-controlled apparatus for a user to access data regarding commerce assets such as products or services offered at virtual stores participating in a virtual marketplace, the assets being organized by types, each type being enabled to include all versions of an asset, the computer-implemented apparatus comprising:

means for establishing a storepath relationship to correlate asset types among the virtual stores;

means for consulting the storepath relationship for the asset type of a particular asset upon receiving a query from a user, the query including

the particular asset and a particular virtual store indicating the virtual store at which the user desires to shop; and

means for returning data representing all the versions of the particular asset to the user as a response to the query.

33. The computer-controlled apparatus of claim 32 wherein the data returned includes data representing availability of all the versions of the particular asset.

34. The computer-controlled apparatus of claim 33, wherein the data returned further includes data representing the virtual stores that carry versions of the particular asset as well as a price of the versions of the particular asset for comparison shopping.

35. The computer-controlled apparatus of claim 33 wherein one or more virtual stores can elect to not have available one or more of the different versions of the particular asset.

36. The computer-controlled apparatus of claim 33 wherein when the user buys one of a particular asset or one of the virtual stores adds to the availability of the particular asset, the availability of the particular asset is dynamically updated.

(ix)

Evidence Appendix

None.

(x)

Related Proceedings Appendix

None.